

**FINK & KATZ, PLLC**

Attorneys at Law  
299 Broadway, Suite 1803  
New York, NY 10007  
TEL (212) 385-1373  
FAX (212) 689-1710  
www.finkkatz.com

Denied.

October 13, 2023



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Jonathan A. Fink Esq.  
Philip Katz, Esq.

October 13, 2023

**BY ECF**

Honorable Denise Cote  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 1910  
New York, New York 10007

Re: *YaYe Ferguson v. City of New York, et al.*, 22-cv-04846 (DLC)

Your Honor:

I am the attorney for the plaintiff YaYe Ferguson (“plaintiff”) in the above-referenced matter. The parties write to respectfully request a sixty (60) day extension of time to file the Joint Pretrial Order from November 8, 2023, until January 8, 2024. In addition, should defendant choose to file a summary judgment motion, the time to file a proposed briefing schedule is requested to be extended from October 16, 2023, until December 15, 2023.

The parties are requesting this extension because both sides are actively engaged in settlement negotiations and are cautiously optimistic that the case will settle. To that end both sides are requesting either continued mediation or a settlement conference with the magistrate.

In addition, I am scheduled to start a five-defendant gang conspiracy trial before Judge Daniel Chun in Kings County Supreme Court on October 16, 2023, that is expected to last into February 2024.

That trial case is *People v. Dashawn Austin, Indictment No. 71086/2021*, and will only be scheduled on Mondays, Tuesdays, and Thursdays.

By way of background, plaintiff filed the complaint in this action on June 9, 2022, alleging, *inter alia*, that on June 10, 2019, members of the New York City Police Department (“NYPD”) subjected him to false arrest and excessive force while plaintiff was standing in front of the CVS pharmacy,

causing him to sustain injuries, including a fractured right ankle that required surgery. (ECF No.1 (“Pl. Compl.”) ¶¶ 15, 18).

On July 12, 2023, although the parties engaged in mediation the case was not resolved. (See ECF No. 29).

On August 23, 2023, Your Honor, pursuant to the parties’ first request to extend the time to complete fact discovery, ordered the following: 1) Extend the time to complete fact discovery from August 25, 2023, to October 9, 2023; 2) File proposed summary judgment briefing schedule by October 16, 2023; and 3) File the Joint Pretrial Order by November 8, 2023.

Following the exchange of voluminous documents and the taking of three depositions the parties have completed fact discovery.

Accordingly, the parties propose the following revised case management plan for Your Honor’s consideration.

1. Proposed briefing schedule for summary Judgment motions by: **December 15, 2023**
2. Joint Pretrial Order to be filed by: **January 8, 2024**

The parties thank Your Honor for consideration of this request.

Respectfully,

  
Jonathan A. Fink

cc: **By ECF**  
Michael Pesin-Virovets  
Senior Counsel  
Special Federal Litigation Division  
The City of New York  
Law Department  
100 Church Street  
New York, NY 10007  
(212) 356-2617  
[mpvirove@law.nyc.gov](mailto:mpvirove@law.nyc.gov)  
attorney for defendants